

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 25, 2003
10:07 A.M.

Reported by:
Peter Petty
Contract No. 150-01-006

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

William J. Keese, Chairman

Robert Pernell

Arthur H. Rosenfeld

James D. Boyd

John L. Geesman

STAFF PRESENT

Robert Therkelsen, Executive Director

William Chamberlain, Chief Counsel

Jonathan Blees, Assistant Chief Counsel

Song Her

R. Michael Martin

Jason Sterling

Martha Brook

Michael Magaletti

PUBLIC ADVISER

Roberta Mendonca

ALSO PRESENT

Stephen Yurek, General Counsel
Air Conditioning and Refrigeration Institute

Kevin C. Smith, Managing Director
Energy Systems International

Richard H. Counihan, Vice President
Electricity Innovation Institute

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P R O C E E D I N G S

10:07 a.m.

CHAIRMAN KEESE: I call this business meeting of the Energy Commission to order. Commissioner Pernell, would you like to lead us in the pledge.

(Whereupon the Pledge of Allegiance was recited in unison.)

CHAIRMAN KEESE: By a vote of two to nothing the senior caucus decided they were going tie-less on a day when it's 100 in Sacramento.

Consent calendar. Do I have a motion?

COMMISSIONER ROSENFELD: I so move.

COMMISSIONER PERNELL: Second.

CHAIRMAN KEESE: Motion and second.

All in favor?

(Ayes.)

CHAIRMAN KEESE: Opposed? Adopted five to nothing.

I will announce we will be going into executive session after this meeting on a legal matter.

Number 2, East Altamont Energy Center is off calendar.

Item 3, Appliance Efficiency

1 Nonemergency Rulemaking. Possible re-adoption of
2 regulations adopted on an emergency basis on March
3 19, 2003, in response to litigation.

4 COMMISSIONER PERNELL: Mr. Chairman, we
5 have Mr. Blees, who will introduce and explain the
6 item, I think.

7 (Laughter.)

8 MR. BLEES: I'll do my best. Thank you,
9 Mr. Chairman and Commissioners. As you recall,
10 last fall four appliance manufacturer trade
11 associations filed suit against the Energy
12 Commission in federal court asserting that various
13 aspects of the Commission's appliance efficiency
14 regulations are preempted by federal law.

15 The Commission has been opposing the
16 lawsuit in federal court. And simultaneously the
17 Commission instituted a rulemaking on a fast-track
18 emergency basis because we thought that we could
19 make some changes to the regulations that would
20 accommodate some of the concerns that the trade
21 associations expressed in their lawsuit without
22 significantly affecting the energy efficiency
23 effects or the implementation of the regulations.

24 The Commission completed the emergency
25 rulemaking on March 19, 2003, and adopted various

1 changes to the appliance regulations.

2 Under California law emergency
3 regulations can remain in effect only 120 days
4 after they are adopted. And then they expire
5 unless the adopting agency re-adopts them through
6 the normal rulemaking process under the
7 Administrative Procedure Act.

8 We have now gone through that process
9 under the direction of the Efficiency Committee,
10 and we are here today to ask you to re-adopt the
11 emergency regulations that were adopted on March
12 19th. There is no change at all from what you
13 adopted then. We're simply asking that you put
14 into permanent effect what you adopted on March
15 19th.

16 COMMISSIONER PERNELL: Mr. Chairman.

17 CHAIRMAN KEESE: Thank you.

18 Commissioner Pernell.

19 COMMISSIONER PERNELL: Mr. Blees, as I
20 understand it, these were either suggestions or
21 agreed upon by the trade associations?

22 MR. BLEES: That's correct.

23 COMMISSIONER PERNELL: Thank you.

24 MR. BLEES: The Commission did not go as
25 far as they would have wanted, but they certainly

1 thought that everything that the Commission did
2 was a move in the right direction, yes.

3 CHAIRMAN KEESE: Thank you. Why don't
4 we hear from Mr. Yurek.

5 MR. YUREK: Thank you, Mr. Chairman,
6 Commissioners. I'm Steve Yurek with the Air
7 Conditioning and Refrigeration Institute. And I
8 appreciate being here in Sacramento on a nice
9 sunny day. It was actually quite nice when I
10 arrived; it was expecting 100-and-some degrees and
11 so it's quite pleasant --

12 CHAIRMAN KEESE: That's later this
13 afternoon.

14 COMMISSIONER BOYD: Stick around.

15 COMMISSIONER PERNELL: He'll be gone by
16 then.

17 (Laughter.)

18 MR. YUREK: What I'd like to iterate is
19 also what Commissioner Pernell and John Blee
20 said, is that I'm here today not to argue against
21 re-adopting these proposed regulations in a
22 permanent manner, but to also say that they do not
23 address completely all the issues that we did have
24 with them. While not doing that, they do make a
25 lot of changes that are very important and

1 substantive, that help explain the rules, make
2 them clearer. And so we are very supportive of
3 that.

4 We did file comments at the end of last
5 week just on one minor point, and that is related
6 to table U, and in the regulations that were
7 adopted you made some of that information
8 voluntary. You indicated that by putting a
9 footnote 1 by the regulation.

10 In the emergency regulations it's quite
11 easy to find what the footnote 1 is. But when it
12 was printed in the complete compliance title 20,
13 you had to go back, several pages forward to find
14 out what that meant.

15 And what we would suggest, just to add
16 clarity to the proposed regulations, is to follow
17 what you did in prior, in the initial adoption
18 that was accepted last November, is to put in
19 parentheses "voluntary" by that information in
20 table U. It would just help the people reading
21 through that to understand what that is, rather
22 than trying to dig through title 20 to find out
23 what footnote 1 means.

24 And that would be the only suggestion
25 that we would have.

1 CHAIRMAN KEESE: Thank you. Mr. Martin,
2 would you care to respond to that suggestion?

3 MR. MARTIN: It was certainly our intent
4 that there should be no difference between the
5 two. And if we can make it more clear
6 editorially, we certainly will do that.

7 CHAIRMAN KEESE: Is that acceptable, Mr.
8 Blees?

9 MR. BLEES: Absolutely.

10 CHAIRMAN KEESE: And the Committee?

11 COMMISSIONER PERNELL: Certainly
12 acceptable to the Committee.

13 CHAIRMAN KEESE: Okay. Do we have any
14 other comment on this item?

15 COMMISSIONER PERNELL: Mr. Chairman.

16 CHAIRMAN KEESE: Commissioner Pernell.

17 COMMISSIONER PERNELL: Mr. Chairman, I
18 would move staff recommendations on item 3.

19 COMMISSIONER ROSENFELD: Second.

20 CHAIRMAN KEESE: Motion, Pernell;
21 second, Rosenfeld.

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Adopted five
25 to nothing. Thank you. Thank you, Mr. Yurek.

1 Item 4, Order Instituting Rulemaking.

2 Possible adoption of an order instituting a
3 rulemaking proceeding on the Commission's
4 appliance efficiency regulations.

5 COMMISSIONER PERNELL: Mr. Chairman, we
6 have Mr. Martin who will introduce and answer any
7 questions for the Commission.

8 MR. MARTIN: Thank you. On February 6,
9 2002, the Commission adopted new or upgraded
10 standards for several appliance types in response
11 to AB-970. The Commission recognizes these
12 standards did not achieve the maximum feasible
13 reductions in wasteful, uneconomic, inefficient or
14 unnecessary consumption of electricity as directed
15 by AB-970. And plans to conduct another
16 rulemaking to consider efficiency standards for
17 other appliance types in order to accomplish the
18 goals set forth in AB-970.

19 Additionally, AB-1561 requires the
20 Commission to adopt regulations by January 1, 2004
21 for residential clothes washers that after January
22 1, 2007 will have a water efficiency equal to or
23 better than the water efficiency standards in
24 place for commercial clothes washers.

25 The draft order that you have in front

1 of you would start this rulemaking. We have one,
2 as I mentioned, a specific deadline we have to
3 meet for clothes washers. There have been some
4 suggestions of other items that we should be
5 talking about and the Committee will consider
6 these. This is not a requirement to adopt
7 anything, but to do a standard rulemaking to
8 consider the proposals that are listed in the
9 draft order.

10 CHAIRMAN KEESE: Thank you, Mr. Martin.

11 COMMISSIONER PERNELL: Mr. Chairman.

12 CHAIRMAN KEESE: Commissioner Pernell.

13 COMMISSIONER PERNELL: Question. Just
14 for clarification, Mr. Martin, as I understand
15 this, this is a package of proposals that the
16 Committee will be reviewing. It is not
17 necessarily everything on there, but it is a
18 package of proposals.

19 MR. MARTIN: That --

20 COMMISSIONER PERNELL: And the Committee
21 will then come forward with a recommendation.

22 MR. MARTIN: That is correct. And there
23 is a paragraph in here indicating that the
24 Committee has the authority to add further items,
25 or to delete items that are on here.

1 And this list that is part of the order
2 were items that were discussed at a scoping
3 workshop that we had recently. And as
4 Commissioner Pernell mentioned, they're not a
5 commitment to adopt any of them, except, I think,
6 the clothes washer one where there's --

7 COMMISSIONER PERNELL: Yeah, we're --

8 MR. MARTIN: -- we have really no choice
9 on the clothes washer one.

10 COMMISSIONER PERNELL: -- on the clothes
11 washer one because that was legislation passed and
12 signed last year.

13 MR. MARTIN: That's correct.

14 CHAIRMAN KEESE: Thank you.

15 COMMISSIONER PERNELL: I have no other
16 questions.

17 CHAIRMAN KEESE: Mr. Yurek.

18 MR. YUREK: Thank you, again. What I
19 just wanted to say on this is just to state as
20 you're going forward in this new rulemaking that
21 to represent that four trade associations are
22 interested in working with the Commission in
23 trying to develop as best and most appropriate
24 regulations that meet our concerns, as well as
25 address the concerns of the Commission.

1 And, again, we're, all four of those
2 trade associations are interested in working with
3 you through this process, and hopefully addressing
4 some of the concerns that were raised in the suit
5 that was before the District Court.

6 CHAIRMAN KEESE: Thank you.

7 COMMISSIONER PERNELL: We also look
8 forward to working with the associations.

9 MR. MARTIN: And so does the staff.

10 (Laughter.)

11 CHAIRMAN KEESE: Thank you, Mr. Martin.
12 Do I have a motion?

13 COMMISSIONER ROSENFELD: I so move.

14 CHAIRMAN KEESE: Motion, Rosenfeld.

15 COMMISSIONER PERNELL: Second.

16 CHAIRMAN KEESE: Second, Pernell.

17 All in favor?

18 (Ayes.)

19 CHAIRMAN KEESE: Opposed? Adopted five
20 to nothing. Thank you.

21 Item 5, International Energy Fund.
22 Possible approval of the top ten IEF proposals in
23 the pre-investment funding for selected California
24 companies to implement energy projects in foreign
25 countries.

1 MR. STERLING: Hi, I'm Jason Sterling,
2 export program staff. This fund, as you
3 mentioned, is to provide pre-investment funding
4 for California firms to conduct energy projects in
5 foreign countries.

6 Our scoring process is now complete and
7 we're recommending funding for the top ten scoring
8 proposals. This solicitation was competitive. We
9 had more proposals than we had money to fund. And
10 most of the projects are in Latin America and
11 Asia. Five of them specifically are in Mexico,
12 which was one of our target regions.

13 These proposals include technologies
14 kind of across the board. They include PV,
15 efficiency, wind power, et cetera, cogeneration.

16 And that's about it. We're available
17 for any questions you may have.

18 CHAIRMAN KEESE: Thank you. You have
19 the list of projects before.

20 COMMISSIONER BOYD: Mr. Chairman.

21 CHAIRMAN KEESE: Commissioner Boyd.

22 COMMISSIONER BOYD: I would just like to
23 point out that the proposals you see before you
24 result from a fairly significantly revamped
25 process that Commissioner Geesman and I, as the

1 overseeing Committee, undertook with the staff.

2 And speaking as Chairman of that
3 Committee I'm very satisfied with what the staff
4 has done and with the proposals that we have
5 before us. And particularly pleased that in light
6 of the huge emphasis we're putting on reaching
7 across our southern border to the nation of
8 Mexico, that -- and as it turned out, several
9 projects will do just that for us. And fit in
10 very well with this Commission's new
11 responsibility with regard to chairing the
12 Governor's Border Conference Energy Worktable.

13 So, I'd like to one, compliment the
14 staff; and number two, move adoption of their
15 proposal.

16 CHAIRMAN KEESE: Motion by Commissioner
17 Boyd.

18 COMMISSIONER GEESMAN: Second.

19 CHAIRMAN KEESE: Second by Commissioner
20 Geesman. Any other comment? Any public comment?

21 All in favor -- I'm sorry, I knew that.
22 Mr. Smith.

23 MR. SMITH: I'm Kevin Smith with Energy
24 Systems International. I know your agenda is full
25 and I'll be brief.

1 I want to thank the Commission for this
2 fund and for their approval of our proposal. And
3 to congratulate Tim Olson and staff for doing an
4 excellent job.

5 This is the type of program and risk-
6 sharing between government and the private sector
7 that's needed to do good things. And I know that
8 studies and R&D are important, but developing
9 projects changes the real world in implementing
10 the type of technology that this Commission
11 supports and will make a difference.

12 Thank you for the opportunity to
13 participate.

14 CHAIRMAN KEESE: Thank you.

15 COMMISSIONER BOYD: Thank you for your
16 comments.

17 COMMISSIONER PERNELL: Thank you.

18 CHAIRMAN KEESE: And thank you for
19 congratulating the Committee. If the vote's
20 right, you can congratulate the Commission.

21 (Laughter.)

22 CHAIRMAN KEESE: All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Five to
25 nothing, approved.

1 Item 6, ITRON, Inc. Possible approval
2 of contract 400-02-011 for \$72,470 to determine
3 what models of regulated appliances are being
4 offered for sale in California.

5 COMMISSIONER PERNELL: Mr. Chairman, Mr.
6 Martin will introduce the item and answer any
7 questions.

8 MR. MARTIN: This is an enforcement
9 contract. It requires the contractor to determine
10 what models of specified appliances are being sold
11 in California by visits and by checking on the
12 website and comparing that with our database.

13 It carefully has been worded to avoid
14 any federally regulated appliances, so it won't
15 run into these problems with this litigation about
16 what we are allowed to enforce.

17 We will then be in a position to tell
18 how good our database is and make it better.

19 CHAIRMAN KEESE: Thank you. I think
20 making our database relevant and available is a
21 goal of all of us. Do I have a motion?

22 COMMISSIONER PERNELL: Mr. Chairman, I
23 would move staff recommendations --

24 CHAIRMAN KEESE: Motion, Commissioner
25 Pernell.

1 COMMISSIONER PERNELL: -- item 6.

2 COMMISSIONER ROSENFELD: Second.

3 CHAIRMAN KEESE: Second, Commissioner

4 Rosenfeld. Any public comment?

5 All in favor?

6 (Ayes.)

7 CHAIRMAN KEESE: Opposed? Adopted five

8 to nothing. Thank you.

9 Item 7, Portland Energy Conservation.

10 Possible approval of contract 500-02-030 for

11 \$110,000 for collaborative research in the

12 California Commissioning Collaborative.

13 MS. BROOK: Good morning, Commissioners.

14 COMMISSIONER PERNELL: Good morning.

15 MS. BROOK: I'm Martha Brook and I work

16 in the PIER buildings program. I'm here today to

17 ask your approval for PIER to enter into a

18 collaborative research agreement with the Portland

19 Energy Conservation, Incorporated.

20 Portland Energy Conservation is a

21 nonprofit organization that is currently

22 administering the California Commissioning

23 Collaborative. This collaborative is a long-term,

24 multi-sponsored program dedicated to increasing

25 the practice of building commissioning in

1 California.

2 This collaborative research agreement
3 will fund the Energy Commission's continued
4 participation in the California Commissioning
5 Collaborative.

6 One highlight of this agreement is that
7 it will fund the development of a test plan for
8 and the initial testing of the title 24 equipment
9 acceptance requirements. These acceptance
10 requirements are the State of California's first
11 step toward mandating building commissioning for
12 newly constructed buildings.

13 At this time I'd like to answer any
14 questions that you may have.

15 CHAIRMAN KEESE: Any questions? A
16 motion?

17 COMMISSIONER ROSENFELD: I move.

18 CHAIRMAN KEESE: Motion, Commissioner
19 Rosenfeld.

20 COMMISSIONER PERNELL: Second.

21 CHAIRMAN KEESE: Second, Commissioner
22 Pernell. Public comment?

23 All in favor?

24 (Ayes.)

25 CHAIRMAN KEESE: Opposed? Adopted five

1 to nothing. Thank you.

2 Item 8, University of California, Office
3 of the President/CIEE. Possible approval of
4 contract 500-02-004, amendment 1, by adding \$5
5 million in two years to the contract which will
6 allow for the funding of projects that last more
7 than 30 months. This contract has been before us
8 before and had been approved. This is an
9 amendment adding funding.

10 MR. MAGALETTI: Good morning, Mr.
11 Chairman, Commissioners. My name is Mike
12 Magaletti; I work in the PIER program.

13 We are asking for an extension of time
14 on this program and an increase in funding. The
15 extension of time for two years; increase in
16 funding for \$5 million.

17 The purpose of this agreement is to fund
18 research and development and demonstration awards
19 for the PIER program through the University of
20 California, Office of the President. The Office
21 of the President will assist the Commission in
22 administering these awards. The awards will be
23 primarily made to researchers within the
24 University of California system, California State
25 University system and California Community College

1 systems.

2 The Department of Energy Laboratories,
3 government agencies and academic institutions of
4 higher education from other states are also
5 involved. UCOP will be responsible for executing
6 the agreements with the researchers and
7 administering these agreements, which is very
8 important to us, because we have limited staff.

9 This agreement has been working well.
10 UC is keeping their administrative costs to below
11 10 percent. And we have a number of projects that
12 are running longer than expected, so we want to
13 extend this agreement. That was the first major
14 purpose for the amendment. We also have a number
15 of projects being developed that exceed the
16 original funding amount, or look to exceed the
17 original funding amount.

18 For those reasons we come before you and
19 ask for this approval.

20 CHAIRMAN KEESE: Thank you.

21 COMMISSIONER ROSENFELD: I move.

22 CHAIRMAN KEESE: Motion, Commissioner
23 Rosenfeld.

24 COMMISSIONER GEESMAN: Second.

25 CHAIRMAN KEESE: Second, Commissioner

1 Geesman. Any other comment? Public comment?

2 All in favor?

3 (Ayes.)

4 CHAIRMAN KEESE: Opposed? Five to
5 nothing. Thank you.

6 Item 9, Electricity Innovation Institute
7 (E2I). Possible approval of contract 500-02-014,
8 amendment 1, to add \$8 million in two years to
9 conduct collaborative research, the PIER program.

10 MR. MAGALETTI: Good morning, again,
11 Commissioners --

12 CHAIRMAN KEESE: Can we say -- do you
13 want to say ditto?

14 MR. MAGALETTI: Ditto.

15 (Laughter.)

16 COMMISSIONER ROSENFELD: I move.

17 CHAIRMAN KEESE: Motion, Commissioner
18 Rosenfeld.

19 COMMISSIONER GEESMAN: Second.

20 CHAIRMAN KEESE: Second, Commissioner
21 Geesman. Any public comment?

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Adopted.

25 MR. MAGALETTI: Thank you very much.

1 CHAIRMAN KEESE: The minutes from the
2 June 11th meeting.

3 COMMISSIONER BOYD: Move adoption.

4 CHAIRMAN KEESE: Motion, Commissioner
5 Boyd.

6 COMMISSIONER PERNELL: Second.

7 COMMISSIONER GEESMAN: Second.

8 CHAIRMAN KEESE: Second by everybody.
9 All in favor?

10 (Ayes.)

11 CHAIRMAN KEESE: Opposed? Adopted five
12 to nothing.

13 Committee and Oversight? Chief
14 Counsel's report?

15 MR. CHAMBERLAIN: Yes, Mr. Chairman. As
16 we've indicated we need a brief closed session
17 today for litigation matters.

18 CHAIRMAN KEESE: Thank you. Executive
19 Director's report?

20 MS. MENDONCA: He was just called away.

21 CHAIRMAN KEESE: I noticed that. Public
22 Adviser's report.

23 MS. MENDONCA: Thank you, Chairman.
24 Nothing at this time.

25 CHAIRMAN KEESE: Okay. We will then

1 forego the Executive Director's report.

2 Public comment at this time?

3 MR. COUNIHAN: Commissioners, my name is
4 Rick Counihan. I'm Vice President with the
5 Electricity Innovation Institute. I want to thank
6 you for your actions today and I look forward to
7 working with you to further the public benefit
8 goals of the PIER program.

9 Thank you very much.

10 CHAIRMAN KEESE: Thank you.

11 COMMISSIONER PERNELL: Thank you.

12 COMMISSIONER ROSENFELD: Thank you.

13 CHAIRMAN KEESE: Seeing no other public
14 comment, this meeting is adjourned, subject to
15 executive session in my office on a litigation
16 matter immediately.

17 (Whereupon, at 10:28 p.m., the business
18 meeting was adjourned, subject to
19 executive session.)

20 --o0o--

CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
meeting, nor in any way interested in outcome of
said meeting.

IN WITNESS WHEREOF, I have hereunto set
my hand this 1st day of July, 2003.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345